

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

CLERK'S OFFICE U.S. DIST COURT
AT LYNCHBURG, VA

for Charlottesville
FILED
AUG 05 2013

JULIA C. DUDLEY, CLERK
BY: *Ray Collier*
DEPUTY CLERK

UNITED STATES OF AMERICA,

)

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) Case No. 3:00cr00066-1

)

) MEMORANDUM OPINION

)

ERIC MARTIN VAN BUREN.

) By: Norman K. Moon

) United States District Judge

Defendant, Eric Martin Van Buren, submitted a motion asking the court to "hear his unheard claim" in his previously filed motion pursuant to 28 U.S.C. § 2255. Van Buren states that he is filing his motion pursuant to Federal Rule of Civil Procedure 60(b)(6) and that he is challenging the court's failure to reach the merits of his claim that his counsel provided ineffective assistance during plea negotiations. Because Van Buren's motion merely recasts issues already raised and addressed in his prior § 2255 proceeding, I deny his motion under Rule 60(b) and construe and summarily dismiss the current motion under § 2255(h) as a successive § 2255 motion.¹

Van Buren has already pursued a § 2255 motion regarding the same judgment.² *United States v. Van Buren*, Case No. 3:00cr0066, 2008 U.S. Dist. LEXIS 50750 (W.D. Va. 2008), *appeal dismissed*, 305 F. App'x 108 (4th Cir. 2008) (unpublished). This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit. *See* § 2255(h). Van Buren offers no indication that he has obtained certification from the Court of Appeals to file a second or successive § 2255 motion.

¹ Because Van Buren does not demonstrate any defect in the integrity of the prior § 2255 proceedings, he fails to present a proper ground for relief under Rule 60(b), and his motion is properly considered and dismissed as a successive § 2255 motion. *Gonzalez v. Crosby*, 545 U.S. 524, 532 (2005).

² By order entered July 1, 2008, I granted the United States' motion for summary judgment and dismissed Van Buren's § 2255 motion.

Therefore, I will direct the clerk's office to docket Van Buren's current submissions as a § 2255 motion, which will be summarily dismissed as successive. An appropriate order will issue this day.

The Clerk is directed to send copies of this memorandum opinion and accompanying order to Van Buren.

ENTER: This 5th day of August, 2013.



United States District Judge